

[Reported for the Sun.]
CITY COURT, July 6, 1837.
Present, Judges Brice, Nesbit and Worthington.
INDICTMENT FOR MURDER.
[Concluded.]

Mr. Jackson, a foreigner, who keeps a grocery store in the vicinity of the residence of the late Mrs. Upperman, testified that he went to the house of the unfortunate woman about five minutes after the cry of murder. On his arrival at the house, he found her stretched out on the floor; her feet were in the fire place. She was lying on her back, and the wounds she had received were all exposed to the eye of the beholder. He examined her wounds, and looked into her head. When the cry of murder was first set up he did not hear it, or if he did hear it at all, he did not recognize it. But as soon as he had been informed that a murder had been committed, he went to the house of Mrs. Upperman. This was about 8 o'clock, on the night of the 21st of April. Lockert had been at his store that afternoon and evening, and left it about an half hour before the alarm of murder. He staid in his shop sometime talking about his exploits at sea, for the delineation of which he possessed a singular and extravagant propensity. He was at his shop about half an hour, and when he left, he said, "I begin to feel hungry. I must go home and get my supper." In about an half hour after he left the alarm of murder was given. He saw the axe in the house of Mrs. Upperman, and it was matted with blood. Sarah Ann street runs east and west from Saratoga street.

[A minute examination in relation to the locality of Sarah Ann street, and the alley in which Mrs. Upperman resided, was here made by Mr. Richardson, but as it would not be understood by the reader, unless accompanied by a diagram, it is omitted.]

Mr. Jackson, cross examined by Mr. Earnest.—Was certain as to the time that elapsed between Lockert's departure from his shop and the alarm of murder. Lockert was in good spirits and good humor whilst at the shop. He was a man of jocular temperament, and at all times was in the habit of indulging his jokes. He never saw him out of humor in his life. Before he left his shop, Lockert purchased a half pint of rum. He was a man of temperate habits so far as the witness could say, and he never had seen him drunk. He was not drunk that evening, nor did he drink any of the liquor he purchased on that occasion.

By Mr. Walsh.—Lockert was in the habit of calling daily at his shop. He had been his neighbor two months, and during that period so far as he could say, Lockert had conducted himself with propriety. He saw nothing unusual in his conduct that night. He staid in the shop about half an hour and talked of nothing but his sea voyages. He drank nothing that night at the shop of the witness; he sold him a half pint of rum which he took away with him. He was in the habit of purchasing half a pint daily, though on some days, he did not purchase. On those occasions he was in the habit of calling, and would say, that as he had not exhausted his allowance, he would not replenish till the next day.

By Mr. Ropes.—Thought that the wounds must have produced death. The two wounds on the neck were parallel. Mrs. Upperman was lying on the floor with her left side up. Both of the wounds on the neck appeared to have been inflicted at the same moment.

By Mr. Earnest.—Is sure that when Lockert left the shop he said he must go home to supper.

The Court.—You may stand aside Mr. Jackson, you have answered that question four times already.

Elizabeth Upperman is the daughter of the late Mrs. Nancy Upperman, and is in the sixteenth year of her age, and if properly educated and nurtured, would pass for a very interesting young lady.

By Mr. Richardson.—She was not at home at the time her mother was murdered. She was at home when Lockert came for his supper. Her mother was then engaged in getting supper, and Lockert stood in the door with his arms folded, picking his teeth. He had been out since four or five o'clock in the afternoon. Immediately after he came home she went over to see a Mrs. Thorpe, a sick neighbor, and left Lockert, her mother, and a little child about four years old, in the house, and they were the only persons who were present. There had not been any quarrel between her mother and Lockert. Whilst she was at Mrs. Thorpe's, a little girl came and informed her that her mother was murdered, and immediately afterwards, a little boy came and informed her grand mother, Mrs. Young, who also was at Mrs. Thorpe's, that the murder had been committed. Between the time of the arrival of the little girl and the boy to inform them of the murder, but a few minutes had elapsed. Elizabeth now went home and found her mother lying dead, murdered on the floor. She thinks that her grand-ma left Mrs. Thorpe's a few moments after she did. When she reached the house of her mother it was crowded by people who had been called in by the bloody deed. She had no recollection that any quarrel had taken place between Lockert and her mother. Lockert came

home at about 4 o'clock in the afternoon; then went out again and stayed till after dark. Does not know how long he had been in the house when she went out to go to visit Mrs. Thorpe. When she went out she left the little child sitting in the corner of the room playing with a little puppy. She was absent about fifteen minutes when she heard that her mother was murdered. Was first informed of the murder by a little girl named Susan Henly. A Mrs. Banks, who was present at the time, bade her not be alarmed though her mother was dead. At the house of her mother, or near to it, she met her grand mother, who was crying and exclaiming, my poor daughter is murdered.

Judge Brice remarked, interrupting an unnecessary cross interrogatory propounded by one of the counsel for the defence, that the little girl had been full and explicit. All that she knew, continued the Judge, is that she left Lockert and her mother alive and well; when she came back her mother was murdered.

Cross-examined by Mr. Richardson.—She went to Mrs. Thorpe's before her grand-mother did.

By Mr. Walsh.—Lockert had lived with her mother about three years.

Mrs. Sarah Young, the mother of Mrs. Upperman, an elderly woman, who was attired after the manner of the respectable society of Methodists, and who at the onset elicited feelings of respect and commiseration only to destroy them at a subsequent period, was now called to the stand. At the time the murder was committed, she was at the house of Mrs. Thorpe, a sick neighbor; but was not at the residence of that lady fifteen minutes. Her house fronts on Sarah Ann street; that which was occupied by Mrs. Upperman was separated from hers by a small alley.

[The location of the different premises was here very minutely and elaborately discussed and examined, for the purpose of showing that whoever committed the murder must have escaped from the house of Mrs. Upperman, by coming out of the alley into Sarah Ann street. It cannot be necessary to report this part of the examination at length. Sufficient is it to say, that the facts that Mr. Richardson wished to make out, were fully established.]

Mrs. Young continued, and said that she had not been at her daughter's house that day. The first intimation she had of the murder, was whilst she was at the residence of Mrs. Thorpe. Her little grandson came and called her out, and said she was wanted. The lad did not tell her what had been done till she had got half way home, when he told her that Mrs. Upperman was murdered. She saw Lockert that day at 3 o'clock. After the boy told her of the murder, she went into her own house, looked through a window that opened into the house of her daughter, and saw Mrs. Upperman lying dead on the floor. She then went into the house of the deceased, went up to the dead body of her daughter, and screamed murder. At this time nobody was in the house, but the murdered Mrs. Upperman. She saw an axe—it was standing beside a table; on the table was a candle which was yet burning and displayed the dreadful spectacle of her murdered daughter. The table and axe were near the door. She picked up the axe, put it out of the door, and then cried murder, but did not give the alarm until after she saw the axe. Between the time she left home to go to Mrs. Thorpe's and her return from thence, and her cries of murder, not more than twenty minutes had elapsed. She was only in the house a minute or two. She left Elizabeth Upperman at Mrs. Thorpe's, but she came home in a few minutes afterwards. She remained at Mrs. Thorpe's a few minutes only.

Cross-examined by Mr. Walsh.—The distance between her house and that of Mrs. Thorpe's, was about equal to twice the length of the Court House. On her return she saw nobody in Mrs. Upperman's, but the dead body; and the door was wide open. There was only one way of access to the house of Mrs. Upperman, and that was through the alley.

By Mr. Richardson.—She had heard Lockert threaten the life of Mrs. Upperman. One day he came to her house and said to her, "that time piece that was given to me, and I gave to Elizabeth, has disappeared, is gone." She asked him where it was; he did not say what became of it, but he said he had three others; to which she replied, that she would rather see them than hear of them, but was glad if he had so many. Lockert became very angry, and said that she, Mrs. Young, had sowed sedition between Nancy (Mrs. Upperman) and her original legitimate husband. She denied the accusation with warmth, replied, it was false, and that whatever difficulty had existed between them was the result of liquor. She then bade him go away and leave her; he obeyed, but before he departed he said that he would be d—d if he did not knock down, and drag out, and kill Nancy.

[At this point Mrs. Young, who was going on with a strange jumble of fact or fiction, in relation to the clock and Nancy, emitting a volley of words, which could not have the least possible bearing on the merits of the case, and which evinced any thing but a spirit of meekness and forbearance compatible with the religious garb

she wore, was interrupted by Judge Brice, who remarked that he could not see what it had to do with the matter; and at his instance, seconded by Mr. Richardson, she was directed to retire.]

Mr. Thomas Bradshaw, whose dialect indicated him to be a native of Yorkshire or Lancashire, England, and who is a weaver by profession, was now called to the stand, and requested to state to the jury what he knew about the transaction.

"Gentlemen of the jury," said Mr. Bradshaw, assuming the attitude and manner of Daniel O'Connell, "I live in Sarah Ann street; and, gentlemen of the jury, on the evening of the 21st of April, as I was standing in company with Mr. George Dunn, and several others at the mouth of the alley, which runs from Sarah Ann street to the residence of Mrs. Young and Mrs. Upperman—

[Mr. Richardson here interrupted Mr. Bradshaw, who was ably and somewhat eloquently deposing to the facts of the case, for the purpose of reducing his testimony to the shape of interrogatory and answer.]

Mr. Bradshaw, in continuation, said that whilst he and his friends were standing at the point designated, he saw Lockert come out of the alley at the ordinary pace, and pass them. He knew him well; could not be mistaken in the man. Soon after Lockert passed them he mended his pace, walked very rapidly and in a hurried manner, and was soon out of sight. After the lapse of about five minutes, he heard the cry of murder; he was standing at this time not more than fifteen feet from the mouth of the alley. He saw Lockert go into Saratoga street; the cry of murder was made by Mrs. Young. Lockert had not passed him more than four or five minutes before the alarm of murder was issued. He then went into the alley; and met a man with an axe in his hand. As the man did not appear to be disposed to hurt any one, he went down the alley, and the man told him he would go and show him the murdered woman. There was but one way to get into the alley. He went into the house, and found Mrs. Upperman lying on her back dead. He went into the house with a man named Boggs or Bags. At the time he met the man with the axe in his hand, he was distant about the width of the house from the scene of slaughter. He was perfectly certain that it was not more than five or ten minutes from the time of the cry of murder till he saw Lockert come out of the alley. Somebody came out of the alley before the cry of murder; who it was he did not know, but was sure that it was not Lockert.

Cross-examined by Mr. Walsh.—He did not recollect what kind of a night it was, whether the sky was cloudy or not, or whether there was a moon. It was between six and seven o'clock when he saw Lockert come out of the alley. Before he distinctly heard the cry of murder, he heard a cry, which he at the time supposed, proceeded from a religious meeting, and thought it was the shout of people getting religion. Lockert passed him from ten to twelve minutes before he heard the cry of murder. Five minutes might have elapsed between the cry that he at first supposed to be the shouts of religionists, and the recognized cry of murder.

By Judge Brice.—Is there any thing to enable you to compute the time exactly or correctly?

Mr. Bradshaw.—No sir; I had no means of ascertaining the time with any kind of precision; but, there is a witness in attendance, who I suppose can give it exactly. When the people came up and collected about the house, I told them which way Lockert went, and directed them the way to go in pursuit of him. The cry supposed to have proceeded from a religious meeting, and that recognized as murder, were but the continuation of one alarm.

By a Juror.—At what time did you quit work?

Bradshaw.—I quit work when I could not see any longer. My eyes are bad; I am a weaver by profession, and some days I quit earlier than on others. It depends on the weather how long we work. If it be a dark and cloudy day, we are obliged to quit earlier than on fine days.

By the Court.—Are you satisfied that you could distinguish and positively identify Lockert?

Bradshaw.—Yes sir, I am.

Judge Brice.—The witness may retire.

Bradshaw recalled by Mr. Richardson.—Lockert when he passed him went into Saratoga street. Is perfectly sure of the fact.

[Mr. Bradshaw, who is an intelligent man, and who deported himself with great apparent candor and uprightness, submitted to a long and a very ingenious cross examination at the hands of Mr. Walsh, a gentleman, who in the business of cross examining a witness, displays great tact and ability. During its progress, Bradshaw thought that his integrity was impugned, lost sight of himself, and suffered himself to be irritated into a passion. As a witness, however, nobody dreamed of impeaching his truth.]

Isaac Newton, a young lad, aged 17 years, lived within one hundred or one hundred and fifty yards of the late residence of Mrs. Upperman. He was standing in the street, when Lockert passed him in a hurried manner, talking to himself. A few minutes afterwards he heard

that Mrs. Upperman was murdered; heard the cry of murder; went round the corner, saw Mrs. Young, who told him that her daughter was killed. About ten minutes after Lockert passed him, he heard the cry of murder. He afterwards went up to Mrs. Upperman's and saw the dead body. Went into the house with the crowd that had collected, and saw the murdered woman lying on the floor, dead and bloody.

Cross-examined by Mr. Walsh.—Was sure as to the time that elapsed between Lockert's passing him and the cry of murder.

Mr. Inlow, now resides in Woolfork's row, but in April last, and on the 21st day of that month, lived with Mrs. Sarah Young, the mother of Mrs. Upperman. Was in the house of that woman at 7 o'clock in the evening of that day. He looked out of Mrs. Young's window into Mrs. Upperman's room, and saw somebody lying on the floor. As he had understood that nobody was in the house he became alarmed, and told a boy, the grand-son of Mrs. Young, to go and tell his grand-ma that somebody was lying bloody on the floor of Mrs. Upperman, and she must come home. He saw the bloody body on the floor by looking out of Mrs. Young's window. Mrs. Young came home, when he went with her into the house and found Mrs. Upperman dead on the floor.

Judge Brice.—Why did you look into the window?

Inlow.—Because the little girl said nobody was at home.

By Mr. Richardson.—Did you go in before.

Inlow.—No sir. When Mrs. Young came home, I went in with her. She took up the axe and said this is the axe my daughter was killed with. Did not go in before because he thought it best to let the mother know, and go in with her. When he and Mrs. Young went in, nobody was in the house except the deceased. Was in the house when the inquest was called.

Cross-examined by Mr. Walsh.—Lived with Mrs. Young about two years. Boarded with her—paid his board—is a cooper by trade. He had been at work all day on the 21st of April. When he came home, he found Mrs. Young and her grand daughter Elizabeth, in the house. Both went out to see a sick woman. He had been in the house about fifteen minutes before he looked into Mrs. Upperman's window. Did not go to the window of Mrs. Upperman till Mrs. Young came home. Was induced to look into Mrs. Upperman's, when he looked from Mrs. Young's window, by the little girl who said that every body was gone. Although he saw the dead body on the floor, he did not think proper to go in till somebody came to go with him. He did not give any alarm himself. Had not been into Mrs. Upperman's house for more than a week, because he had work to do at all times; and as he had lived so near to her, he did not think it necessary for a man who had work to do, to spend much of his time in visiting his neighbors. He had at all times been on good terms with Mrs. Upperman: he took the axe from Mrs. Young, who handed it to him, and desired him to take good care of it, lest it might be stolen!

Mr. Bradshaw recalled by Mr. Richardson.—Identified Inlow as the man he saw coming out of the alley with the axe in his hand.

Mrs. Young recalled by Mr. Richardson.—Stated that when she came from Mrs. Thorpe's, Inlow was standing in the yard looking into the window of Mrs. Upperman's house, and exclaimed "poor Mrs. Upperman! poor Mrs. Upperman!" She saw Inlow take the axe, and he said it was covered all over with blood—"it is bloody to the end." She recognised the axe as Lockert's. There was a candle on the table at the time she and Inlow went in—the candle was burning, and was but the part of one.

Cross-examined by Mr. Walsh.—She repeated what she had previously deposed in relation to the candle. It burnt dimly, but afforded light enough to enable her to recognize and distinguish all surrounding objects. The candle was at last extinguished by a watchman. Inlow is addicted to liquor, but cannot be called a man of intemperate habits. Shortly before the murder was committed, Mrs. Upperman came into her house and begged some bread for Lockert's supper. She said that she had made his coffee, but was a little short of bread, and remarked that Lockert had not had any coffee during the day. Mrs. Upperman and Elizabeth took tea with her that day; after tea Nancy said she must go home and get Lockert's supper, and added he has come already, and I must go.

Elizabeth Upperman recalled by Mr. Richardson.—Did not see the axe when she went to Mrs. Thorpe's; nor did she see it in the house that day. If it had been in the house she would have seen it; of this she was most positive.

[To be continued.]